



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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TAMWORTH EDUCATION ASSOCIATION/:  
TAMWORTH EDUCATIONAL SUPPORT :  
PERSONNEL ASSOCIATION/NEA- :  
NEW HAMPSHIRE :

Petitioner :

v. :

TAMWORTH SCHOOL BOARD :

Respondent :

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CASE NO'S. T-0309:4  
M-0733

DECISION NO. 96-074

#### BACKGROUND

The Tamworth Education Association, NEA-New Hampshire (Association), filed a Petition for Modification on April 10, 1996 seeking to include educational support personnel in the existing bargaining unit of professional personnel represented by the Tamworth Education Association. The Tamworth School Board (Board) filed its Answer and Objection on April 23, 1996. This matter was then heard by the PELRB on June 18, 1996. In the meantime, the parties reached a preliminary agreement, filed with the PELRB on June 14, 1996, which stipulated that (1) the Board did not oppose the formation of a separate, non-merged bargaining unit for the petitioned-for employees and (2) the only two remaining positions in dispute were the head cook and head custodian positions. Following the series of events recited in the findings, below, the Tamworth Educational Support Association filed a Petition for Certification on August 7, 1996. It is the filing of that second Petition which prompts this review of the record and the following decision.

#### FINDINGS OF FACT

1. The Tamworth School Board is a "public employer" of teachers and other personnel employed in its school department within the meaning of RSA

273-A: X.

2. The Tamworth Education Association, NEA-New Hampshire, is the duly certified bargaining agent for teachers and other professional personnel employed by the Board pursuant to a certification issued by the PELRB on November 13, 1978 in Case No. T-0309.
3. On April 10, 1996, the Tamworth Education Association filed a modification petition to add approximately 16 support personnel to the professional bargaining unit represented by the Tamworth Education Association. The Board objected to the merger of professional and support personnel into one bargaining unit represented by the Tamworth Education Association by its Answer filed on April 23, 1996.
4. Before this matter was heard by the PELRB on June 18, 1996, the parties agreed that the support personnel would not be included in the same bargaining unit with teachers and professional personnel and agreed on the composition of the bargaining unit, with the exception of the head cook and head custodian positions. These two positions were the focus of the PELRB's hearing on June 18th and its decision (Decision No. 96-053) issued on July 11, 1996. That decision included the head cook and head custodian positions in the bargaining unit and has not been appealed.
5. On July 11, 1996, after the findings in Decision No. 96-053, the PELRB issued an amended certification for the Tamworth Education Association bargaining unit. This certification inadvertently and erroneously included the head custodian and head cook positions in the teachers' bargaining unit. This prompted the Board to file a Motion to Amend Certification on July 23, 1996, to delete the head custodian and head cook positions from the bargaining unit.
6. On August 7, 1996, the Tamworth Educational Support Personnel Association (TESPA), NEA-New Hampshire, filed a petition for certification for support personnel inclusive of aides, tutors, kitchen workers, custodians, secretaries, head

custodian and head cook.

7. On August 21, 1996, counsel for the Board advised the PELRB by letter that the Board had no objection to the petition for certification and noted that one of the kitchen worker and a/the secretarial positions referenced therein were currently vacant. Those vacancies do not impact the number of personnel required to establish a bargaining unit under RSA 273-A:8.

#### DECISION AND ORDER

Given the state of the record, inclusive of the Board's most recent correspondence to the PELRB on August 21, 1996, the facts in this case are not in dispute. The parties have agreed on the composition of the bargaining unit; no appeal has been taken from the PELRB decision of July 11, 1996 (Decision No. 96-053). Thus, the sole purpose of this decision is to dispose of the various documents which have been filed and to correct the amended certification of July 11, 1996. Accordingly, the following actions and remedies are directed:

1. The modification petition filed April 10, 1996 by the Tamworth Education Association is VACATED and DISMISSED for having been replaced by the certification petition of August 7, 1996.
2. The Amended Certification of the teachers' unit as issued on July 11, 1996 is VACATED with the unit composition to read: "all full-time classroom teachers, special education teachers, and music teachers." This is consistent with the composition of the bargaining unit as certified on November 13, 1978, and from which no formal change has been made or certified. Coincidental with this relief, the Board's Motion to Amend Certification, a corrective motion, filed July 19, 1996, is GRANTED.
3. The bargaining unit sought by TESPA in its petition for certification of August 7, 1996, shall be as stated in PELRB Decision No. 96-053, notwithstanding that TESPA was not the petitioning organization which sought the rulings in that matter. For purposes of these proceedings, TESPA

shall be considered a successor in function to the earlier petitioner, the Tamworth Education Association. Since both the modification petition and the petition for certification were filed by or on behalf of Uniserv Director Theodore Wells, Jr., the Association's modification petition shall be considered to have been replaced by TESPAs petition for certification.

4. The Board, through its agents and employees, shall furnish the PELRB and TESPAs forthwith with a list of the employees it believes are eligible to vote in a bargaining agent election for a bargaining unit as constituted by their own agreement and as confirmed by this decision.

So ordered.

Signed this 22nd day of August, 1996.



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PARKER DENACO  
Hearing Officer